

Office - Supreme Court, U.S.
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ALEXANDER L. STEVENS,
CLERK

No. 83-703, No. 83-1031

In the Supreme Court of the United States

OCTOBER TERM, 1983

FLORIDA POWER & LIGHT COMPANY, PETITIONER

v.

JOETTE LORION, ET AL., RESPONDENTS

UNITED STATES NUCLEAR REGULATORY COMMISSION
and THE UNITED STATES OF AMERICA, PETITIONERS

v.

JOETTE LORION, ET AL., RESPONDENTS

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

JOINT APPENDIX

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PETITIONS FOR WRITS OF CERTIORARI
FILED OCTOBER 28, 1983 AND DECEMBER 21, 1983
CERTIORARI GRANTED MARCH 26, 1984

BEST AVAILABLE COPY

16 pp

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The following opinion and decision have been omitted in printing this Joint Appendix because they appear on the following pages in the appendix to the printed Petition for Certiorari in No. 83-703:	
Opinion of the Court of Appeals, issued July 26, 1983	1
Director's Decision under 10 CFR 2.206, issued November 5, 1981, DD-81-21, 14 NRC 1078 (1981)	16
The following judgments and orders have been omitted in printing this Joint Appendix because they appear on the following pages in the appendix to the printed Petition for Certiorari in No. 83-1031:	
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UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-1132

JOETTE LORION, d/b/a
CENTER FOR NUCLEAR RESPONSIBILITY, PETITIONER

v.

UNITED STATES NUCLEAR REGULATORY COMMISSION
and UNITED STATES OF AMERICA, RESPONDENTS
FLORIDA POWER & LIGHT COMPANY, INTERVENOR

RELEVANT DOCKET ENTRIES

DATE	FILINGS—PROCEEDINGS
02-08-82	4-Petitioner's petition for review of an order of the Nuclear Regulatory Commission
02-08-82	Certified copy of petition for review was mailed to NRC & Attorney General
02-12-82	4-Motion of Florida Power & Light Company for leave to intervene
03-15-82	Clerk's order that the motion of Florida Power & Light Company for leave to intervene is granted
03-17-82	Certified Index to Record
03-18-82	4-Petitioner's motion to extend time to file brief for 30 days
03-24-82	4-Intervenor's response in opposition to petitioner's motion for extension of time
03-29-82	Clerk's order that the time for filing petitioner's brief is extended for a period of thirty (30) days from the date of this order, without prejudice

DATE	FILINGS—PROCEEDINGS
04-05-82	4-Petitioner's motion for deferred filing of appendix
04-08-82	4-Intervenor's motion to dismiss petition for review
04-09-82	4-Respondents' statement in support of motion to dismiss petition for review
04-15-82	Clerk's order that counsel for the parties are granted leave to proceed herein under the provisions of Rule 30(c), FRAP. In lieu of submitting one copy of the typewritten or page proof brief provided under Rule 30(c), counsel shall submit four (4) copies thereof for filing
04-19-82	4-Petitioner's response in opposition to intervenor's motion to dismiss
04-28-82	4-Petitioner's motion to extend time to file brief
05-05-82	Clerk's order that petitioner's motion for extension of time to file brief is granted and the time for filing petitioner's brief is extended to and including May 10, 1982
05-11-82	Petitioner's brief
05-18-82	Per Curiam order that the Clerk is directed to enter the case as dismissed unless, within 15 days of the date of this order, an amended petition for review is submitted to the Court, the caption of which indicates the party petitioning the Court is the same party that requested relief from the Commission; Tamm, Wilkey and Mikva (who did not participate)
06-01-82	4-Petitioner's amended petition for review of an order of the NRC
06-08-82	Certified copy of petitioner's amended petition for review was mailed to NRC and the Honorable Attorney General
06-15-82	15-Respondents' brief
06-29-82	15-Intervenor's brief
07-20-82	15-Petitioner's reply brief

DATE	FILINGS—PROCEEDINGS
07-21-82	7-Joint appendix
08-03-82	25-Intervenor's (Florida Power & Light Co.) brief
08-05-82	15-Respondents' brief
10-25-82	4-Respondents' suggestion to dispense with oral argument
10-26-82	4-Intervenor's (Florida Power & Light Co.) concurrence in respondents' suggestion to dispense with oral argument
11-01-82	4-Petitioner's opposition to respondents' suggestion to dispense with oral argument
11-08-82	Clerk's order that the suggestion to dispense with argument is denied; and sua sponte, that the following times are allotted for the oral argument of the above entitled case: Petitioner—15 minutes; Respondents—15 minutes. Only one counsel per side will be allowed to argue
11-18-82	ARGUED before MacKinnon * and Mikva, CJ's; and Luther M. Swygert, Senior Circuit Judge for the USCA for the Seventh Circuit
07-26-83	Opinion for the Court filed by Circuit Judge Mikva. See order 3-28-84
07-26-83	Per Curiam order by this Court that the instant petition for review is dismissed, and this case is transferred to the United States District Court for the District of Columbia, in accordance with the opinion of this Court filed herein this date. It is further ordered by this Court sua sponte that the Clerk shall withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing. See Local Rule 14, as amended on November 30, 1981 and June 15, 1982. The parties are free, of course, to move for the earlier issuance of the mandate herein if they be so advised.

DATE	FILINGS—PROCEEDINGS
09-09-83	15-Respondents' petition for rehearing and suggestion for rehearing en banc
09-22-83	Per curiam order that respondent's petition for rehearing filed 09/09/83 is denied; Mikva, CJ, SCJ MacKinnon and SCJ Swygert for the 7th Circuit
09-22-83	Per curiam order, en banc, that the suggestion for rehearing en banc of respondents is denied; CJ Robinson, Wright, Tamm, Wilkey, Wald, Mikva, Edwards, Ginsburg, Bork and Scalia, SCJ MacKinnon and SCJ Swygert for the 7th Circuit
09-27-83	4-Respondents' motion to stay issuance of mandate
09-27-83	4-Intervenor's motion for stay of mandate
10-13-83	Per curiam order that the motion of respondents and intervenor to stay issuance of mandate are granted and the Clerk is directed to withhold issuance of the mandate of this Court to and including 10/31/83; Mikva, CJ, SCJ MacKinnon and SCJ Swygert for the 7th Circuit
10-26-83	4-Respondents' motion to extend stay of mandate
11-07-83	4-Petitioner's opposition to respondents motion to extend stay of mandate
11-08-83	Certified copy of notice from Clerk, Supreme Court that petition for writ of certiorari was filed 10-28-83 in SC No. 83-703
11-09-83	Notice from Clerk, Supreme Court that petition for writ of certiorari was filed 10-28-83 in SC No. 83-703
11-25-73	Per Curiam order that respondent's motion to extend stay of mandate is dismissed as moot: Mikva, CJ; SCJ MacKinnon; and Swygert, SCJ, USCA for the Seventh Circuit
01-03-84	Notice from Clerk, Supreme Court that petition for writ of certiorari was filed 12-21-83 in SC No. 83-1031

DATE	FILINGS—PROCEEDINGS
03-28-84	Per curiam order, sua sponte, that the Opinion and Order entered July 26, 1983 be, and the same hereby are, vacated; Mikva, CJ, SCJ MacKinnon and SCJ Swygert for the Seventh Circuit. See order 3-29-84
03-28-84	Certified copy of order from Clerk, Supreme Court granting petition for writ of certiorari on 03-26-84 in SC No. 83-703
03-28-84	Certified copy of order from Clerk, Supreme Court granting petition for writ of certiorari on 03-26-84 in No. 83-1031
03-29-84	Per curiam order, sua sponte, that the order of March 28, 1984, having been inadvertently entered, is hereby vacated; Mikva, CJ, SCJ MacKinnon and SCJ Swygert for the 7th Circuit

[Logo]

CNR

CENTER FOR NUCLEAR RESPONSIBILITY
 7210 Red Road, Room 208
 South Miami, FL 33143
 305-661-2165

U.S. Nuclear Regulatory Commission
 1717 H Street, N.W. 11th Floor
 Washington, D.C. 20555

Nunzio J. Palladino, Chairman
 Victor Gilinsky, Commissioner
 Peter A. Bradford, Commissioner
 John F. Ahearne, Commissioner

September 11, 1981

Gentlemen:

I write to you out of concern about Turkey Point nuclear unit #4, and what appears to be the NRC's lack of concern as to the increasingly severe safety problems plaguing this unit. Areas of immediate concern to myself and other Miami residents living near this reactor unit are:

1. Turkey Point Unit #4 is one of eight nuclear reactor units that the NRC has named whose steel pressure vessel may be vulnerable to cracking or shattering caused by thermal shock in the event of an accident that requires high pressure injection emergency cooling.
2. Turkey Point Unit #4 is operating in an impaired condition with nearly 25% of its steam generator tubes plugged and removed from service. This reduction in heat transfer area could cause this unit to be more susceptible to overheating, necessitating emergency cooling.

3. Turkey Point Unit #4 is required to be shut down every six months for steam generator inspection and tube plugging in order to maintain safe operation of the unit. The last inspection was scheduled for July of 1981 but the NRC granted FP&L an extension on its operating license allowing Unit #4 to run for two additional months. This is despite the fact that the NRC has stated in various documents that "we do not have an adequate technical basis to predict steam generator performance for periods longer than six months."
4. Turkey Point Unit #4 is operating presently with steam generator tubes that may be on the verge of leaking. The Union of Concerned Scientists in a 1975 study on Nuclear Power Risks claims that if only a handful of tubes ruptured in an accident, the emergency core cooling system would be stalled and the core could melt. Should such an accident occur and the reactor vessel did not maintain its integrity, there would be no way to protect the public health and safety of the residents of Miami.
5. Both steam generator tube integrity and pressure vessel integrity are unresolved safety issues before the NRC.

In light of these safety problems at Turkey Point Unit #4, we ask that the Nuclear Regulatory Commission take steps to immediately initiate a license review of this nuclear reactor unit. It is the responsibility of the Nuclear Regulatory Commission to protect the public health and safety, and this can only be accomplished if adequate safety systems exist to protect the public in case of an accident.

Turkey Point Unit #4 will continue to deteriorate, and is quickly approaching the magic number of 25% of its tubes plugged. We hope at this point the NRC will derate the unit, so that it doesn't operate in an unsafe manner.

In closing, we ask that the NRC request that Turkey Point Unit #4 shut down immediately for its already delayed steam generator inspection. We also ask that the NRC consider the suspension of the license for Turkey Point Unit #4 until such time as FP&L submits proof that this reactor unit's pressure vessel would maintain its integrity in a loss of cooling accident.

As the consequences of a core melt would be totally unacceptable to the residents of Miami, we respectfully ask that prompt action be taken on these crucial matters.

Respectfully yours,

/s/ Joette Lorion
JOETTE LORION

Center for
Nuclear Responsibility

cc Marshall Grautenhuis, NRC
Atomic Safety and Licensing Board
Joe Gilliland, NRC Atlanta
Attorney Martin Hodder
Robert Pollard, UCS
Dr. Gordon Edwards, CCNR

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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No. 82-1132

JOETTE LORION, PETITIONER

v.

UNITED STATES NUCLEAR REGULATORY COMMISSION
and UNITED STATES OF AMERICA, RESPONDENTS

CERTIFIED INDEX OF THE RECORD

The Nuclear Regulatory Commission hereby certifies that the material listed and described below constitutes the administrative record underlying the Commission decision which is the subject of the instant petition for review.

For the Commission,

/s/ Samuel J. Chilk
SAMUEL J. CHILK
Secretary of the Commission

Dated at Washington, D.C.
This 15th day of March, 1982

UNITED STATES OF AMERICA
 NUCLEAR REGULATORY COMMISSION
 FLORIDA POWER AND LIGHT COMPANY
 (Turkey Point Unit 4)

Docket No. 50-251
 (2.206)

INDEX

Date Docketed	Document Number	Title or Description of Document
Date of Document		

VOLUME 1

Mar 16, 1982 Sep 11, 1981 1 Letter Joette Lorion (Center for Nuclear Responsibility) to Commissioners raising concerns regarding reactor

Mar 16, 1982 Nov 5, 1981 2 Letter Denton to Lorion responding to September 11, 1981 letter

Mar 16, 1982 Nov 5, 1981 3 Director's Decision Under 10 CFR 2.206 (DD-81-21)

Mar 16, 1982 Nov 9, 1981 4 Letter Lorion to Denton informing that September 11, 1981 letter not a formal petition under 2.206

Mar 16, 1982 Nov 12, 1981 5 Letter Lorion to Denton reiterating position in September 11, 1981 letter

Mar 16, 1982 Dec 14, 1981 6 Letter Chilk to Lorion informing that the Commission declined to vacate or rescind the Director's Decision

Mar 16, 1982 Jul 1975 7 Regulatory Guide 1.83—Inservice Inspection of Pressurized Water Reactor Steam Generator Tubes

Mar 16, 1982 undated 8 Paragraph D-2 of Facility Operating License

Date Docketed	Document Number	Title or Description of Document
Office of the Secretary	Date of Document	
Mar 16, 1982	Jan 25, 1980	9 Letter A. Schwencer to Florida Power and Light Company regarding Amendment 52 to Operating License
Mar 16, 1982	Apr 29, 1980	10 Letter Robert Uhrig (Florida Power and Light Company) to Darrell G. Eisenhut enclosing a request to amend Appendix A of Operating Licenses
Mar 16, 1982	May 15, 1980	11 Letter Varga to Florida Power and Light Company enclosing Amendment 57 to Operating License No. DPR-31 and Amendment No. 50 to Operating License No. DPR-41
Mar 16, 1982	Dec 18, 1980	12 Letter Florida Power and Light Company to Darrell G. Eisenhut enclosing results of Unit 4 steam generator inspections
Mar 16, 1982	Jan 15, 1981	13 Letter Varga to Florida Power and Light Company enclosing Amendment 54 to Operating License No. DPR-41
Mar 16, 1982	Mar 5, 1981	14 Letter Florida Power and Light Company to Eisenhut requesting to amend Appendix A of Operating Licenses
Mar 16, 1982	May 4, 1981	15 Policy Issue (Information) Paper—SECY-81-286 Pressurized Thermal Shock
Mar 16, 1982	May 27, 1981	16 Letter Florida Power and Light Company to Eisenhut requesting that Unit 4 be authorized to operate for an additional four equivalent full power months prior to performing the next steam generator inspection with enclosures

Date Docketed Office of the Secretary	Date of Document	Docu-ment Num-ber	Title or Description of Document
Mar 16, 1982	Jun 23, 1981	17	Letter Varga to Florida Power and Light Company enclosing Amendment 68 to Operating License No. DPR-31 and Amendment 60 to Operating License No. DPR-41
Mar 16, 1982	Jul 6, 1981	18	Letter Varga to Florida Power and Light Company enclosing Amendment 62 to Operating License
Mar 16, 1982	Jul 30, 1981	19	Letter Florida Power and Light Company to Eisenhut requesting that Unit 4 be authorized to operate for an additional two equivalent full power months prior to performing the next steam generator inspection with enclosures
Mar 16, 1982	Aug 21, 1981	20	Letter Eisenhut to Florida Power and Light Company regarding pressurized thermal shock to reactor pressure vessels
Mar 16, 1982	Sep 10, 1981	21	Letter Marshall Grotenhuis to Florida Power and Light Company enclosing Amendment 66 to Operating License for Unit 4

SUPREME COURT OF THE UNITED STATES

No. 83-703

FLORIDA POWER & LIGHT COMPANY, PETITIONER

v.

JOETTE LORION, ETC., ET AL.

ORDER ALLOWING CERTIORARI

Filed March 26, 1984

The petition herein for a writ of certiorari to the *United States Court of Appeals for the District of Columbia Circuit* is granted. This case is consolidated with case No. 83-1031, *United States Nuclear Regulatory Commission and United States v. Joette Lorion, et al.*, and a total of one hour is allotted for oral argument.

SUPREME COURT OF THE UNITED STATES

No. 83-1031

UNITED STATES NUCLEAR REGULATORY COMMISSION
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